



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: February 22, 2005

Department: Zoning, Building & Planning **Staff Contact:** Enrico Gradi, Program Planner

TITLE: APPEAL: Denial of a Special Use Permit for Specific Uses for Permissive C-1 Uses (as listed in Section 14.B.2) except apartments, Retailing of Consumer Products (as controlled by Section 15.B.2.a(6)), Indoor Amusement Enterprise (Section 15.B.2.a (4)) except dancehall & Restaurant with Full Service Liquor License (CO-50002/CSU-40025).

COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial of a Special Use Permit

SUMMARY:

At the January 12, 2005 public hearing, the County Planning Commission voted (6-1; McMahan opposed) to deny a Special Use Permit for Specific Uses for Permissive C-1 Uses (as listed in Section 14.B.2) except apartments, Retailing of Consumer Products (as controlled by Section 15.B.2.a (6)), Indoor Amusement Enterprise (Section 15.B.2.a (4)) except dancehall & Restaurant with Full Service Liquor License on Tract 3A, SP-90-3, Lands of Lamonica & Wenk, located at 3840 Coors Boulevard SW, on the east side of Coors between Rio Bravo and Gun Club, zoned A-1, containing approximately 54 acres. The decision was based on seven Findings (Attachment 2).

This case was initially heard by the County Planning Commission on September 1, 2004 public hearing, at which time the applicant presented a request for a Special Use Permit for a Specific Use for a Permissive C-1 uses for an 80 acre site which contained a home improvement center, a movie theater, major and minor retailers and restaurants as well as a pedestrian plaza and assisted living facility. The County Planning Commission deferred the request and directed the applicant revise the site plan with regard to the overall size and scale of the proposal. The applicant was also encouraged to consult the surrounding neighborhoods and community members in the revision process.

At the January 12, 2005 public hearing, the applicant presented a revised site plan to the County Planning Commission, which included a reduction in overall size from 80 acres to 54 acres. The revised site plan featured a forty-acre shopping center, a two-acre community plaza area and an 11-acre office park. The County Planning Commission (CPC) recognized the modifications to the applicants site plan however, the CPC determined that the proposed size of the development specifically regarding commercial square footage and overall land area exceeded the criteria contained in the Albuquerque/Bernalillo County Comprehensive Plan.

The applicants appeal maintains that the CPC's findings for denial were arbitrary and capricious and is not supported by Resolution 116-86 (Attachment 1).

The criteria for considering zone map changes and special use permit applications require that the applicant demonstrate that the existing zoning is inappropriate because (1) there was an error when the existing zone map pattern was created or (2) changed neighborhood or community conditions justify the land use change or (3) a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other land use plan adopted by the Board of County Commissioners even though (1) or (2) do not apply.

ATTACHMENTS:

1. Appeal Application (February 1, 2005).
2. County Planning Commission Notification of Decision Letter (January 18, 2005).
3. County Planning Commission Information Packet.
4. Letters of Community Opposition
5. Letters of Community Support
6. Presentation Submitted by Applicant for January 12, 2005 CPC Hearing
7. Letters of Community Opposition (Oversized) (Commissioners Only)
8. Original Site Plan (Dated July 26, 2004) (Commissioners Only)
9. Revised Site Plan (Dated November 15, 2005) (Commissioners Only)

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING DEPARTMENT

Staff recommends denial of the appeal.